

APPEAL NO. 030582
FILED APRIL 29, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 30, 2003. The hearing officer determined that the appellant/cross-respondent (claimant) did not sustain a compensable injury on _____; that the claimant did not sustain any disability secondary to a compensable injury; and that the respondent/cross-appellant (carrier) is relieved of liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001. The claimant appealed, asserting that he did sustain a compensable injury, that he did timely report the injury to his employer, and that he did have disability. The carrier responded, urging affirmance. The carrier appealed the hearing officer's findings of fact that the claimant did sustain a work-related injury, which caused him to miss work for four days. The file does not contain a response from the claimant.

DECISION

Affirmed.

We have reviewed the complained-of determinations and find that the hearing officer's Decision and Order is supported by sufficient evidence to be affirmed. The disputed issues presented questions of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issues. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determinations are so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We note that the carrier's appeal appears to be premised on the belief that the hearing officer made mistakes in setting forth her findings of fact because they are inconsistent with her conclusions of law. That belief is incorrect. The hearing officer found that the claimant sustained an injury in the course and scope of his employment, however, the injury was not a compensable injury because the claimant failed to timely notify his employer of the injury. The hearing officer further found that the claimant was off work for four days due to the effects of the work-related injury, however, there was no disability because the injury was not a compensable injury. There is nothing inconsistent or incorrect in the hearing officer's findings of fact or conclusions of law, the only inconsistency is in the way in which the carrier is misreading them.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **FIREMAN'S FUND INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DOROTHY C. LEADERER
1999 BRYAN STREET
DALLAS, TEXAS 75201.**

Daniel R. Barry
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge